

ON REHEARING

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7775

JAMES CLAUDE GREER, II,

Petitioner - Appellant,

v.

Director, VADOC,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Glen E. Conrad, Chief District Judge. (7:15-cv-00432-GEC-RSB)

Submitted: May 5, 2016

Decided: May 10, 2016

Before SHEDD and HARRIS, Circuit Judges, and DAVIS, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

James Claude Greer, II, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Claude Greer, II, seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2012) petition. Parties are accorded 30 days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

Because Greer is incarcerated, the notice of appeal is considered filed on the date it was "deposited in the institution's internal mailing system." Fed. R. App. P. 4(c)(1); accord Houston v. Lack, 487 U.S. 266, 276 (1988). In his petition for rehearing* of our original opinion, Greer avers that he timely delivered his notice of appeal to the prison mailroom for filing. The record does not conclusively reveal when Greer delivered the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing the district court to determine this fact and, having done so, to determine whether the filing was timely

* Because no member of the court has requested a poll, Greer's petition for en banc rehearing is denied.

under Fed. R. App. P. 4(c)(1). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED